

Senate File 2165 - Introduced

SENATE FILE _____
BY MULDER, WARD, HARTSUCH, BOETTGER,
SEYMOUR, ZIEMAN, WIECK, BEHN,
PUTNEY, NOBLE, MCKINLEY, ZAUN,
JOHNSON, ANGELO, HANCOCK,
RIELLY, WOOD, HECKROTH, OLIVE,
DANIELSON, SCHOENJAHN, and
DEARDEN

(COMPANION TO LSB 5204HH
BY ZIRKELBACH)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to offenses against identity by specifying a
2 procedure to secure credit information and providing a
3 penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5204XS 82
6 rn/rj/14

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1 1 Section 1. NEW SECTION. 714F.1 DEFINITIONS.
1 2 For the purposes of this chapter, unless the context
1 3 otherwise requires:
1 4 1. "Consumer" means an individual.
1 5 2. "Consumer report" means any information relating to the
1 6 creditworthiness of a consumer.
1 7 3. "Consumer reporting agency" means any person or entity
1 8 engaged in the practice of assembling or evaluating consumer
1 9 credit information for the purpose of furnishing a consumer
1 10 report to a third party. A consumer reporting agency shall
1 11 not include any of the following:
1 12 a. A check service or fraud prevention service company
1 13 that reports on incidents of fraud or issues authorizations
1 14 for the purpose of approving or processing negotiable
1 15 instruments, electronic fund transfers, or similar methods of
1 16 payment.
1 17 b. A deposit account information service company that
1 18 issues reports regarding account closures due to fraud,
1 19 overdrafts, automated teller machine abuse, or similar
1 20 negative information regarding a consumer to inquiring
1 21 financial institutions for use only in reviewing the
1 22 consumer's request for a deposit account at the inquiring
1 23 financial institution.
1 24 c. Any person or entity engaged in the practice of
1 25 assembling and merging information contained in a database of
1 26 one or more consumer reporting agencies and does not maintain
1 27 a permanent database of credit information from which new
1 28 consumer reports are produced.
1 29 4. "Identification information" means as defined in
1 30 section 715A.8.
1 31 5. "Identity theft" means as used in section 715A.8.
1 32 6. "Proper identification" means sufficient identification
1 33 information to ascertain that individual's identity.
1 34 7. "Security freeze" means a hold placed on a consumer
1 35 report that prevents a consumer reporting agency from
2 1 releasing a consumer report without first obtaining the
2 2 consumer's express authorization.
2 3 Sec. 2. NEW SECTION. 714F.2 SECURITY FREEZE.
2 4 A consumer may submit by certified mail to a consumer
2 5 reporting agency a written request for a security freeze. The
2 6 consumer must submit proper identification with the request.
2 7 Within five business days after receiving the request, the
2 8 consumer reporting agency shall commence the security freeze.
2 9 Within ten business days after commencing the security freeze,
2 10 the consumer reporting agency shall send a written

2 11 confirmation to the consumer of the security freeze, a
2 12 personal identification number or password, other than the
2 13 consumer's social security number, for the consumer to use in
2 14 authorizing the suspension or removal of the security freeze,
2 15 including information on how the security freeze may be
2 16 temporarily suspended.

2 17 Sec. 3. NEW SECTION. 714F.3 TEMPORARY SUSPENSION.

2 18 A consumer may request that a security freeze be
2 19 temporarily suspended to allow the consumer reporting agency
2 20 to release the consumer report for a specific time period or
2 21 to a specific third party. The consumer reporting agency may
2 22 develop procedures to expedite the receipt and processing of
2 23 requests which may involve the use of telephones, facsimile
2 24 transmissions, the internet, or other electronic media. The
2 25 consumer reporting agency shall comply with the request within
2 26 three business days after receiving the request. The
2 27 consumer's request shall include all of the following:

- 2 28 1. Proper identification.
- 2 29 2. The personal identification number or password provided
2 30 by the consumer reporting agency.
- 2 31 3. Explicit instructions of the specific time period or
2 32 specific third party designated for suspension of the security
2 33 freeze.

2 34 Sec. 4. NEW SECTION. 714F.4 REMOVAL.

2 35 A security freeze remains in effect until the consumer
3 1 requests that the security freeze be removed. A consumer
3 2 reporting agency shall remove a security freeze within three
3 3 business days after receiving a request for removal that
3 4 includes proper identification of the consumer and the
3 5 personal identification number or password provided by the
3 6 consumer reporting agency.

3 7 Sec. 5. NEW SECTION. 714F.5 FEES.

- 3 8 1. A consumer reporting agency shall not charge any fee to
3 9 a consumer who is the victim of identity theft for
3 10 effectuating a security freeze, temporary suspension, or
3 11 removal if with the initial security freeze request, the
3 12 consumer submits a valid copy of the police report,
3 13 investigative report, or complaint filed with a law
3 14 enforcement agency concerning the unlawful use of
3 15 identification information by another person.

- 3 16 2. A consumer reporting agency may charge a fee not to
3 17 exceed ten dollars to a consumer who is not the victim of
3 18 identity theft for each security freeze, removal, or for
3 19 reissuing a personal identification number or password if the
3 20 consumer fails to retain the original number. The consumer
3 21 reporting agency may charge a fee not to exceed twelve dollars
3 22 for each temporary suspension of a security freeze.

3 23 Sec. 6. NEW SECTION. 714F.6 THIRD PARTIES.

3 24 If a third party requests a consumer report that is subject
3 25 to a security freeze, the consumer reporting agency may advise
3 26 the third party that a security freeze is in effect. If the
3 27 consumer does not expressly authorize the third party to have
3 28 access to the consumer report through a temporary suspension
3 29 of the security freeze, the third party shall not be given
3 30 access to the consumer report but may treat a credit
3 31 application as incomplete.

3 32 Sec. 7. NEW SECTION. 714F.7 MISREPRESENTATION OF FACT.

3 33 A consumer reporting agency may suspend or remove a
3 34 security freeze upon a material misrepresentation of fact by
3 35 the consumer. However, the consumer reporting agency shall
4 1 notify the consumer in writing prior to suspending or removing
4 2 the security freeze.

4 3 Sec. 8. NEW SECTION. 714F.8 EXCEPTIONS.

4 4 A security freeze shall not apply to the following persons
4 5 or entities:

- 4 6 1. A person or person's subsidiary, affiliate, agent, or
4 7 assignee with which the consumer has or prior to assignment
4 8 had an account, contract, or debtor-creditor relationship for
4 9 the purposes of reviewing the account or collecting the
4 10 financial obligation owing for the account, contract, or debt,
4 11 or extending credit to a consumer with a prior or existing
4 12 account, contract, or debtor-creditor relationship.
4 13 "Reviewing the account" includes activities related to account
4 14 maintenance, monitoring, credit line increases, and account
4 15 upgrades and enhancements.

- 4 16 2. A subsidiary, affiliate, agent, assignee, or
4 17 prospective assignee of a person to whom access has been
4 18 granted under a temporary suspension for purposes of
4 19 facilitating the extension of credit or another permissible
4 20 use.

- 4 21 3. A person acting pursuant to a court order, warrant, or

4 22 subpoena.
4 23 4. Child support enforcement officials when investigating
4 24 a child support case pursuant to Title IV=D or Title XIX of
4 25 the federal Social Security Act.
4 26 5. The department of human services or its agents or
4 27 assignees acting to investigate fraud under the medical
4 28 assistance program.
4 29 6. The department of revenue or local taxing authorities;
4 30 or any of their agents or assignees, acting to investigate or
4 31 collect delinquent taxes or assessments, including interest
4 32 and penalties and unpaid court orders, or to fulfill any of
4 33 their other statutory or other responsibilities.
4 34 7. A person's use of credit information for prescreening
4 35 as provided by the federal Fair Credit Reporting Act.
5 1 8. A person for the sole purpose of providing a credit
5 2 file monitoring subscription service to which the consumer has
5 3 subscribed.
5 4 9. A consumer reporting agency for the sole purpose of
5 5 providing a consumer with a copy of the consumer's consumer
5 6 report upon the consumer's request.
5 7 Sec. 9. NEW SECTION. 714F.9 WRITTEN CONFIRMATION.
5 8 After a security freeze is in effect, a consumer reporting
5 9 agency may post a name, date of birth, social security number,
5 10 or address change in a consumer report provided written
5 11 confirmation is sent to the consumer within thirty days of
5 12 posting the change. For an address change, written
5 13 confirmation shall be sent to both the new and former
5 14 addresses. Written confirmation is not required to correct
5 15 spelling and typographical errors.
5 16 Sec. 10. NEW SECTION. 714F.10 APPLICATION.
5 17 An entity listed in section 714F.1, subsection 3, paragraph
5 18 "a", "b", or "c", shall be subject to a security freeze
5 19 commenced by a consumer reporting agency that obtains
5 20 information from such entity.
5 21 Sec. 11. NEW SECTION. 714F.11 WAIVER VOID.
5 22 A waiver by a consumer of the provisions of this chapter is
5 23 contrary to public policy, and is void and unenforceable.
5 24 Sec. 12. NEW SECTION. 714F.12 ENFORCEMENT.
5 25 A person who violates this chapter violates section 714.16,
5 26 subsection 2, paragraph "a". All powers conferred upon the
5 27 attorney general to accomplish the objectives and carry out
5 28 the duties prescribed in section 714.16 are also conferred
5 29 upon the attorney general to enforce this chapter, including
5 30 but not limited to the power to issue subpoenas, adopt rules,
5 31 and seek injunctive relief and a monetary award for civil
5 32 penalties, attorney fees, and costs. Additionally, the
5 33 attorney general may seek and recover the greater of five
5 34 hundred dollars or actual damages for each customer injured by
5 35 a violation of this chapter.

6 1 EXPLANATION

6 2 This bill concerns the protection of a person's identity.
6 3 The bill creates new Code chapter 714F that allows an
6 4 individual, the consumer, to place a hold on the individual's
6 5 consumer report to prevent a consumer reporting agency from
6 6 releasing any information relating to the individual's
6 7 creditworthiness without first obtaining the individual's
6 8 express authorization. This "security freeze" may be
6 9 temporarily suspended to allow a consumer reporting agency to
6 10 release a consumer report for a specific time period or to a
6 11 specific third party. A security freeze remains in effect
6 12 until the individual requests its removal.
6 13 The bill provides that a consumer reporting agency cannot
6 14 charge any fees to an individual who is the victim of identify
6 15 theft. Other individuals pay a fee up to \$10 per security
6 16 freeze, removal, or for reissuing a necessary password if the
6 17 individual fails to retain it, and up to \$12 per temporary
6 18 suspension request.
6 19 The bill addresses third parties that seek a consumer
6 20 report, misrepresentation of a material fact by an individual,
6 21 and lists exceptions to the security freeze, including a
6 22 person with a prior debtor-creditor relationship. The bill
6 23 provides for changes in the consumer report and makes certain
6 24 entities also subject to a security freeze.
6 25 The bill provides that a waiver of the protection offered
6 26 by the security freeze provision is void and unenforceable.
6 27 The bill contains enforcement provisions. A violation is
6 28 an offense under Code section 714.16 and is subject to
6 29 enforcement, including injunctive relief and money damages, by
6 30 the attorney general.
6 31 LSB 5204XS 82
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